IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

Civil Writ Petition No.183 of 2001

With

CWP Nos. 184 of 2001, 1206 and 1213 of 2002

Judgment reserved on: 8.12.2006.

Date of decision: 18.12.2006

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(1) CWP No.183/2001

Chankari **Vs.** **LAC and others**

(2) CWP No.184/2001

Jabar Singh **Vs.** **LAC and others**

(3) CWP No.1206 of 2002

Gopi Ram **Vs.** **LAC and another**

(4) CWP No.1213 of 2002

Sabir Dass **Vs.** **LAC and another**

Coram

The Hon'ble Mr.Justice Dev Darshan Sud,J.

Whether approved for reporting ?[1]

In CWP No.183 and 184 of 2001

For the Petitioners: **Mr. Vinay Kuthiala, Advocate.**

For Respondents No.1&2: **Mr. Ramakant Sharma, Advocate.**

For Respondent No. 3 : **Mr. Rajan Dewan, Addl. A.G.**

In CWP No.1206 and 1213 of 2002

For the Petitioners: **Mr. Vinay Kuthiala, Advocate.**

For the Respondents: **Mr. Rajnish Maniktala, Advocate**

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[1] *Whether the reporters of Local Papers may be allowed to see the judgement*?

Dev Darshan Sud,J.

These four writ petitions have been taken up together as a common point of law is involved. The petitioners have approached this Court seeking directions to the respondents to decide the application moved by them under Section 28-A of the Land Acquisition Act, 1894.

The petitioners allege that the land in their ownership and possession alongwith proforma respondent(s) in village Jhakri, Tehsil Rampur Bushahar, District Shimla, was required by respondent No.2 for the purpose of building a residential colony for the employees of respondent No.2. It was acquired under the provisions of the Land Acquisition Act, 1894. Award No.10 of 1991 and supplementary Award No.17 of 1991 were passed by the Collector. The petitioner(s) further allege that since a large tract of land was acquired, number of villagers were affected. Reference Petitions under Section 18 of the Act were filed before the learned District Judge, Rampur, but the petitioners did not file any application under section 18 of the Land Acquisition Act on determination of the amount by the Reference Court. Petitions under section 28-A of the Act was filed before respondent No.1 for re-determination of the amount of compensation payable to them. The basis for the applications was the judgement and award dated 28.2.1997 made by the learned District Judge, Rampur, in the matter of Asha Ram Vs. state of H.P.

I have heard the learned counsel for the parties. It has been submitted by the learned counsel appearing for respondent No.2 Nathpa Jhakri Power Corporation and respondent No.3 that number of appeals arising out of the same notification and award of the Land Acquisition Collector are pending in this Court. Learned counsel submit that the appeals arise out of the same notification dated March, 1982 and the land has been acquired for the same purpose, i.e., for construction of residential colony at Jhakri. Learned counsel submit that the following appeals amongst others are pending in this Court:-

Sr. No.	**Case No.**	**Cause title**
1.	RFA 271/2000	LAC Vs. Kamla Devi
2.	RFA 65/2001	NJPC Vs. Asa Ram
3.	RFA 69/2001	NJPC Vs. Satya Devi
4.	RFA 70/2001	NJPC Vs. Amar Singh
5.	RFA 73/2001	NJPC Vs. Promila Stainley
6.	RFA 68/2001	NJPC Vs. Nimi Ram
7.	RFA 66/2001	NJPC Vs. Amar Singh
8.	RFA 72/2001	NJPC Vs. Lachmu
9.	RFA 67/2001	NJPC Vs. Nimi Ram
10.	RFA 255/2001	NJPC Vs. Lumbru Ram
11.	RFA 256/2001	NJPC Vs. Tara Chand
12.	RFA 257/2001	NJPC Vs. Daulat Ram
13.	RFA 258/2001	NJPC Vs. Shiv Ram
14.	RFA 259/2001	NJPC Vs. Gauri Saram
15.	RFA 260/2001	NJPC Vs. Satya Devi
16.	RFA 261/2001	NJPC Vs. Tikkam Dassi
17.	RFA 262/2001	NJPC Vs. Daulat Ram
18.	RFA 263/2001	NJPC Vs. Lumbru Ram
19.	RFA 264/2001	NJPC Vs. Dhundi Ram
20.	RFA 265/2001	NJPC Vs. Sumitra
21.	RFA 266/2001	NJPC Vs. Surmi Devi
22.	RFA 267/2001	NJPC Vs. Lachhi Ram
23.	RFA 268/2001	NJPC Vs. Krishna Devi
24.	RFA 269/2001	NJPC Vs. Beas Mani
25.	RFA 270/2001	NJPC Vs. Hukam Chand
26.	RFA 271/2001	NJPC Vs. Sita Ram
27.	RFA 272/2001	NJPC Vs. Savir Dass
28.	RFA 273/2001	NJPC Vs. Narain Dass
29.	RFA 274/2001	NJPC Vs. Savir Dass
30.	RFA 275/2001	NJPC Vs. Ram Dass

31.	RFA 276/2001	NJPC Vs. Satya Devi
32.	RFA 277/2001	NJPC Vs. Shavnoo Ram
33.	RFA 278/2001	NJPC Vs. Mothu Ram
34.	RFA 279/2001	NJPC Vs. Thisoo Ram
35.	RFA 280/2001	NJPC Vs. Nanki
36.	RFA 281/2001	NJPC Vs. Krishan Chander
37.	RFA 282/2001	NJPC Vs. Sarla Devi
38.	RFA 283/2001	NJPC Vs. Ram Dass
39.	RFA 284/2001	NJPC Vs. Shyam Lal
40.	RFA 285/2001	NJPC Vs. Lachhu
41.	RFA 286/2001	NJPC Vs. Jagdish
42.	RFA 287/2001	NJPC Vs. Satya Devi
43.	RFA 288/2001	NJPC Vs. Gauri Saran
44.	RFA 243/1991	LAC Vs. Rajindra Kumari
45.	RFA 156/1997	LAC Vs. Rajindra Kumari
46.	RFA 157/1997	LAC Vs. Rajindra Kumari

The learned counsel for the respondents has relied upon the judgement of the Supreme Court in ***State of Maharashtra*** Vs. ***Manakchand Pyarmal and others***, ***(1996) 1 SCC 297,*** wherein their Lordships of the Supreme court have held that when the subject matter of appeal is pending decision in the High Court, proper course is to keep the reference application made under Section 28-A(1) pending till disposal of the appeal in the High Court. The direction issued by their Lordship is reproduced hereunder:-

> "4. In view of the fact that the award of the Reference Court, referred to hereinbefore, is already the subject-matter of the appeal pending decision in the High Court, appropriate course would be to keep the reference application made under section 28-A(1) pending till disposal of the appeal in the High Court. The Collector shall take action only on the basis of the judgment that may be rendered by the High Court. Until then, the matter be

> kept pending. The writ petition stands dismissed subject to the above direction."

Learned counsel for the petitioners has submitted that according to the law laid down in ***Mangat Ram Tanwar and Another vs. Union of India, AIR 1991 SC 1080, Ajit Singh*** vs. ***State of Punjab and another AIR 1967 SC 856, Dattatraya Govind Mahajan and others etc.*** vs. ***The State of Maharashtra and another, AIR 1977 SC 915*** and ***Union of India and another*** vs. ***Pradeep Kumari and others 1991(1) Sim.L.C., 296,*** which has been affirmed by the Hon'ble Supreme Court in ***(1995) 2 SCC, 736***, it is the right of the petitioners to have the application under Section 28-A decided within the time bound period and the right to receive the compensation is a fundamental right. There can be no dispute with the proposition that the application under Section 28-A of the Act is required to be disposed of expeditiously.

Learned counsel for the petitioners further submits that this Court has already fixed the compensation due and payable for the land at Jhakari in the matter reported as ***Land Acquisition Collector, HPSEB and Another*** vs. ***Rani Rajindera Kumari and Others,(2000)2 Sim.L.C. 45***. This case was taken in appeal before the Hon'ble Supreme Court in Civil Appeal Nos.3371 to 3752 of 2001 (arising out of S.L.P.(c) Nos.12989-13000/1999). The matter has been remanded to this Court for decision afresh and a further direction issued that the

arrangement made in the order dated 4.10.1999 of the Hon'ble Supreme Court directing status quo regarding deposits/investments of the disputed amount shall be maintained and continue till the disposal of the appeals by the High Court. The contention of the learned counsel for the petitioners, therefore, that the matter already stands concluded, cannot be accepted. A finding by this Court that the matter was already settled in entire issue, would be preempting in the case it has been remanded by the Hon'ble Supreme Court. Other decisions cited by the learned counsel for the petitioners have to be read in conjunction with a decision of the Hon'ble Supreme Court in ***Manakchand Pyaramal's*** case. Obviously, when the amount awarded in reference is under challenge before this Court, no direction can be made for disposing of the application under Section 28-A within the time bound period. This will lead to multiplicity of proceedings. Learned counsel for the petitioners further submits that the ratio in ***Manakchand Pyaramal's*** case does not apply to the present petition as the Hon'ble Supreme Court has already determined the compensation payable with respect to the land in Jhakari. I do not find any such determination having been made by their Lordships of Supreme Court. Learned counsel for the petitioners also appearing in most of the matters including the appeal detailed above which are pending in this Court, but no effort seems to have been made for having these appeals disposed of in terms of the observation having been made

by their Lordships of Supreme Court. This Court has been further informed that there are about 170 appeals with respect to the same subject matter which are pending final disposal in this Court.

In view of what I have held above, I do not find any force in the submissions made by the learned counsel for the petitioners. No adverse order contrary to the interest is being passed by this Court. Rather, relying upon ***Manakchand Pyarmal's*** case, it is being ordered that the compensation should be redetermined on the basis of the judgment rendered by this Court in the pending 170 appeals. In so far as the question of hardship is concerned, it is counter blast by the fact that the petitioners will be entitled to the statutory rate of interest which is much higher than interest which would otherwise receivable on the fixed deposit may or may not invested in the security.

The writ petitions are disposed of with a direction that the Collector shall retain the applications made under Section 28-A of the Land Acquisition Act for re-determination of the compensation and shall dispose them of immediately on the decision of the appeals mentioned hereinabove. There shall be no order as to costs.

December 18, 2006. **(Dev Darshan Sud)**
(ss/aks) **Judge.**